

Minutes of the March 6, 1998 Board Meeting
City Council Chambers
3300 Newport Blvd.
Newport Beach

1. Regional Board Chair Henriques called the meeting to order at 9:35 a.m.

BOARD MEMBERS PRESENT

BOARD MEMBERS ABSENT

Melody Henriques, Regional Board Chair
Karen Stein, Regional Vice Chair
Jerry A. King
Evelyn Hart
John B. Withers
Maurice Gallarda
Ann Atkinson
Rodger Siems

STAFF MEMBERS PRESENT

Gerard J. Thibeault, Executive Officer
Kurt V. Berchtold, Assistant Executive Officer
Joanne E. Schneider, Environmental Program Manager
Karen White, Executive Assistant
Hope Smythe, Chief, Planning Section
Scott Dawson, Environmental Specialist III, Planning Section
Gary Stewart, Chief, Regulations Section
Michael J. Adackapara, Chief, Special Projects and Storm Water Section
Pavlova Vitale, Environmental Specialist III, Special Projects and Storm Water Section
Steve Mayville, Assoc. Water Resource Control Engineer, Surveillance and Enforcement Section

LEGAL COUNSEL

Ted Cobb, State Water Resources Control Board

STATE BOARD MEMBER

Mary Jane Forster

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY STAFF

Terry Oda, Acting as Hearing Officer for Item No. 5
Robyn Stuber, Environmental Scientist
Joe Karkoski

PUBLIC IN ATTENDANCE

Joan Ameson, Bowie, Ameson, Wiles and Giannone
Ken Thompson, Irvine Ranch Water District
Keith Molle, YMCA of Metropolitan Los Angeles

Don Schulz, Surfrider Foundation
 Jim Colston, County Sanitation Districts of Orange County
 Jaque Forrest, Heal the Bay
 Nancy Wheatley, County Sanitation Districts of Orange County
 Gary Sargent, Surfrider Foundation
 Ray Devore
 Chris Crompton, County of Orange
 Robert Cowan, Aerochem, Inc.
 Larry Porter, Newport Beach, Interested Party
 Ronald Young, Irvine Ranch Water District
 Sheldon H. Dobkins, Lido Island Resident
 Joyce Qurst, Irvine Ranch Water District
 Roy C. Van Orden, Newport Island, Inc.

3. Approval of Minutes of Regular Board Meeting of January 23, 1998

There being no additions or corrections, the minutes of the regular meeting held on January 23, 1998 were approved as presented.

Regional Vice Chair Stein abstained from voting on this item.

4. Consideration of Consent Calendar Items

Rescission of Cleanup and Abatement Order:

Aerochem, Inc., City of Orange, Orange County, Order No. 98-61

NPDES PERMITS-RENEWAL

Adams Steel, Anaheim, Orange County, NPDES No. CA8000277, Order No. 98-4
 El Toro Marine Corps Air Station (MCAS), El Toro, Orange County, NPDES No. CAS618006, Order No. 98-42
 Tustin Marine Corps Air Facility (MCAF), Tustin, Orange County, NPDES No. CAS618005, Order No. 98-41

WASTE DISCHARGE REQUIREMENTS - RESCINDED

| | <u>Order No.</u> | <u>Discharger</u> | <u>County</u> |
|-----|------------------|--|----------------|
| 1. | 84-61 | San Bernardino County Dept. of Airports, Chino | San Bernardino |
| 2. | 77-165 | First Congregational Church of Los Angeles, Big Bear | San Bernardino |
| 3. | 77-240 | Foothill Communities Church of the Nazarene Alta Loma | San Bernardino |
| 4. | 78-59 | California Portland Cement Company, Colton | San Bernardino |
| 5. | 80-197 | Fuji Natural Foods, Inc., Ontario, San Bernardino | San Bernardino |
| 6. | 74-36 | Agri-Empire Potato Packing Shed, San Jacinto | Riverside |
| 7. | 85-16 | Glen Eden Corp., Corona | Riverside |
| 8. | 86-13 | Real Estate Investment Trust of California, Lake Elsinore | Riverside |
| 9. | 86-53 | National R.V. Products, Inc., Perris | Riverside |
| 10. | 82-283 | Tierra Verde Industries, Irvine | Orange |
| 11. | 93-26 | City of Garden Grove, Garden Grove | Orange |

Order No. 98-45

Executive Officer Thibeault noted that the discharger has requested that subitem 4, Order No. 78-59, for California Portland Cement Company, be removed from the list of orders to be rescinded.

OTHER BUSINESS

Water Quality Assessment/Clean Water Act Section 303(d) List of Impaired Waterbodies (with errata sheet)
Resolution No. 98-33

ACTION: It was moved by Board Member King and unanimously carried to adopt Orders No. 98-61, 98-4, 98-42 98-41 and 98-45, as presented.

5. Joint Public Hearing with United States Environmental Protection Agency - County Sanitation Districts of Orange County 301(h) Permit, NPDES No. CA0110604, Order No. 98-5

Information pertaining to this item is contained in a verbatim transcript.

Joanne E. Schneider, Environmental Program Manager, presented this item. On January 22 and 23, 1998, the Regional Board held public workshops to receive comments pertaining to the proposed permit. Regional Board staff responded to comments received during the public workshops. Additional comments were submitted by Heal the Bay on March 5, 1998. Ms. Schneider reviewed these comments and responded to them. She emphasized that a written response to Heal the Bay comments would be prepared by USEPA. In addition, Ms. Schneider acknowledged Regional Board and USEPA staff for their hard work in preparing the proposed permit.

Mr. Oda reiterated comments of Ms. Schneider and stated that USEPA will be responding to Heal the Bay comments. He also stated that USEPA will be making a final decision regarding the permit within thirty days of March 6, 1998.

Comments were received by the following:

Gary Sargent, Surfrider Foundation, Inc.,
Jacque Forrest, Heal the Bay,
Don Schulz, Surfrider Foundation, Inc.
Bob Caustin, Defend the Bay
Dr. Jack Skinner, member of Stop Polluting Our Newport

The Board discussed issues related to CSDOC developing a web site on the Internet to post monitoring data. The Board directed that a provision be included in the permit requiring CSDOC to submit a proposed implementation plan and time schedule for web site development within three months for review and approval by the Executive Officer.

ACTION: It was moved by Board Member Hart, seconded by Board Member King, and unanimously carried to adopt Order No. 98-5, NPDES No. CA0110604, as modified.

Regional Board Chair Henriques called for a 10-minute break.
Regional Board Chair Henriques reconvened the meeting.

BASIN PLAN AMENDMENT

6. Newport Bay/San Diego Creek Watershed Nutrient TMDL Public Hearing - Resolution No. 98-9

Information pertaining to this item is contained in a verbatim transcript.

Scott Dawson, Environmental Specialist III, Planning Section, presented this item. Mr. Dawson began by stating that at the January 23, 1998 Board Meeting, the Regional Board directed staff to consider comments received at the hearing and to revise the TMDL accordingly for Regional Board consideration. Mr. Dawson

reviewed the proposed changes and public comments received from various interested parties. He stated that because of the extensive changes to tentative Resolution No. 98-9, staff is proposing that the Regional Board only receive public comments and postpone consideration of the Basin Plan Amendment to the April 17, 1998 meeting. He emphasized that this additional time would provide for public review and comments to be submitted to Regional Board staff.

Comments were received from the following interested parties. (These comments and Regional Board staff responses are included in Item No. 5 of the April 17, 1998 agenda packet).

Joe Karkoski, United States Environmental Protection Agency

Dr. David Dilks, Ph.D., Limno Tech, Inc.

Dr. Peggy Fong, Ph.D., Professor of Marine Biology at University of California, Los Angeles

Dr. Alex Horne, Ph.D., Professor of Ecological Engineering, at the University of California, Berkeley

Ken Thompson, Director of Water Quality, Irvine Ranch Water District

Regional Board Chair Henriques noted that the Regional Board will consider adoption of Resolution No. 98-9, at the April 17, 1998 meeting, allowing additional time for public comment.

APPEALS

7. Appeal of Staff's Denial of an Exemption from the Lytle Creek Waste Discharge Prohibition for Roy Devore

Executive Officer Thibeault stated that staff has reviewed the proposed project and has determined that the project will not pose a threat to water quality. Therefore, staff recommended that the Board grant an exemption from the Lytle Creek Waste Discharge Prohibition.

ACTION: It was moved and unanimously carried to grant the exemption from the Lytle Creek Waste Discharge Prohibition for Roy Devore.

8. Appeal of Staff's Denial of Site Closure - Larry Ulvestad, 2074 S. Main Street, Santa Ana, Orange County

This item was withdrawn from the Regional Board's consideration.

ENFORCEMENT ACTIONS

Cease and Desist Order:

10. YMCA of Metropolitan Los Angeles' Camp Whittle, Big Bear, San Bernardino County, Cease and Desist Order No. 98-48

Executive Officer Thibeault presented this item. He stated that Regional Board staff have conducted investigations at the above facility and have found that effluent percolating from the ponds is indirectly affecting the water quality of a stream originating on the camp's property. Therefore, staff has concluded that the condition of the camp's exemption from the prohibition is no longer being met. Mr. Thibeault stated that the proposed cease and desist order requires the YMCA to submit a detailed plan and schedule by March 27, 1998, for achieving permanent compliance with the prohibition for approval by the Executive Officer. Therefore, staff recommends adoption of Cease and Desist Order No. 98-48.

ACTION: It was moved and unanimously carried to adopt Cease and Desist Order No. 98-48, as presented.

9. Administrative Civil Liabilities - General Storm Water Permit Violations

Regional Board Chair Henriques opened the hearing by reading the Chairman's Statement.

Pavlova Vitale, Environmental Specialist III, Special Projects and Storm Water Section, presented this item. On February 2, 1998, the Executive Officer issued sixteen administrative civil liability complaints to dischargers for failure to submit storm water annual reports. Ms. Vitale stated that of the sixteen administrative civil liability complaints issued, five were withdrawn, and nine were settled and waived their right to a hearing. Ms. Vitale stated that it was necessary to bring the remaining two Administrative Civil Liability Complaints No. 98-23 and 98-24, for Regional Board consideration. Ms. Vitale presented background information on the Storm Water General Permit adopted by the State Board in 1996. She stated that one of the requirements for compliance with the general permit is that the discharger shall submit to the Regional Board an annual report by July 1 of each year. Failure to submit the annual report is a violation of the general permit, and the discharger can be assessed up to \$10,000 per day of violation. Ms. Vitale reviewed the events that led to issuance of the administrative civil liability complaints and reviewed each discharger's case. Ms. Vitale stated that staff recommends that Jon Shields, dba Shields Industries Inc., be assessed \$5,000.00, as proposed in Administrative Civil Liability Complaint No. 98-23. Staff also recommended that Dennis Easterly, dba West Coast Charter, be assessed \$3,000.00, as proposed in Administrative Civil Liability Complaint No. 98-24.

Comments were received by the following:

Jon Shields apologized to the Regional Board for nonsubmittal of the required annual report. He stated his inability to pay the assessment due to the financial hardship that the company is currently experiencing. Mr. Shields urged the Board to withdraw the assessment of \$5,000.00 and answered questions from the Board.

ACTION: It was moved by Board Member King, seconded by Board Member Gallarda and unanimously carried to affirm the assessment of \$5,000.00, as proposed in Administrative Civil Liability Complaint No. 98-23.

Dennis Easterly stated that he was unaware of the significance of submitting the annual report and therefore, did not initiate filling out the form, as required. He also stated that the facility had been closed for several months, which caused financial hardship for him, and he is anticipating possible closure of the business in the near future. Mr. Easterly indicated that he is unable to pay the assessment of \$3,000.00 and urged the Board to withdraw the administrative civil liability complaint and the assessment. Mr. Easterly answered questions from the Board.

ACTION: It was moved by Board Member Stein, seconded by Board Member Gallarda and unanimously carried to affirm the assessment of \$3,000.00, as proposed in Administrative Civil Liability Complaint No. 98-24, and to suspend the payments for six months. The Regional Board also directed Mr. Easterly to meet with staff to arrange for an affordable payment schedule.

Board Members Withers and King left the meeting.

NPDES PERMITS - AMENDED

12. Irvine Ranch Water District, Wetlands Water Supply Project, Irvine, Orange County- Order No. 98-56

Information pertaining to this item is contained in a verbatim transcript.

Legal Counsel Cobb introduced this item. Mr. Cobb discussed the legal background information and guidelines for the Board hearing. He stated that the purpose of the item is to determine whether the issue of enhancement, as it relates to the State Water Resources Control Board's "Enclosed Bays and Estuaries Policy", was specifically discussed and incorporated into Order No. 96-2. Legal Counsel Cobb emphasized that the purpose of the hearing is not to reiterate comments received at the July 1, 1996 hearing, but only to receive comments that address the proposed amendment specifically dealing with enhancement.

Douglas Noble, Deputy Attorney General, from the State Attorney General's Office, clarified issues related to the legal case.

Joanne E. Schneider, Environmental Program Manager, presented this item.

Comments were provided by the following:

Bob Caustin, Defend the Bay

Dr. David Dilks, Ph.D., Limno Tech, Inc.

Dr. Rick Gersberg, Ph.D., Professor of Environmental Health, San Diego State University

Mark Wolfe, attorney with Natural Heritage Institute, representing Defend the Bay

Ken Thompson, Director of Water Quality, Irvine Ranch Water District

Dr. Alex Horne, Ph.D., Professor of Ecological Engineering, University of California, Berkeley

Keith MacDonald, Estuarine and Wetland Ecologist, CH2M Hill

Joan Arneson, attorney with Bowie, Arneson, Wiles and Giannone, representing Irvine Ranch Water District

Regional Board Chair Henriques closed the public hearing.

After receiving testimony, the Regional Board agreed to table the action on this item.

ACTION: It was moved by Board Member Gallarda, seconded by Board Member Atkinson, and unanimously carried to table Board Consideration on this item to the April 17, 1998 meeting.

OTHER BUSINESS

19. Underground Storage Tanks Site Closure Report

The Regional Board accepted the report as received.

20. Membership on the Board of Governors for the Southern California Regional Wetlands Clearinghouse

Executive Officer Thibeault stated that the Governor has asked that a Board Member participate on the Board of Governors for the Southern California Regional Wetlands Clearinghouse.

ACTION: It was moved by Board Member Stein and unanimously carried to appoint Board Member Hart to represent the Regional Board on the Board of Governors for the Southern California Regional Wetlands Clearinghouse.

Board Member Hart accepted the appointment.

21. Hazardous Waste and Sewage Spill Incident Report

The Regional Board accepted the report as received.

22. Quarterly Violations Report

Executive Officer Thibeault stated that this report will be prepared for the April 17, 1998 meeting.

23. General Permits

The Regional Board accepted the report as received.

24. Executive Officer's Report

The Regional Board accepted the report as received.

26. ADJOURNMENT

Regional Board Chair Henriques adjourned the meeting at 5:30 p.m, to the regular meeting of April 17, 1998, at the City Council Chambers of Corona, located at 815 W. Sixth Street in Corona, at 9:00 a.m.

Respectfully submitted:

A handwritten signature in cursive script, appearing to read "Gerard J. Thibault".

GERARD J. THIBEAULT
Executive Officer

/kyw